

REMARKS/ARGUMENTS

In the Office Action dated February 21, 2005, claims 1-10 were pending. In the Office Action, the Examiner rejected all 10 pending claims.

Applicant notes that claims 1 and 6 have been amended as suggested by the Examiner. The Examiner's careful consideration of the amended claims as well as the unamended claims, in light of the arguments presented below, is respectfully requested.

The following remarks will follow the order set forth in the Office Action.

Detailed Action

The Examiner indicated in the Office Action dated February 21, 2005 that claims 1-10 were originally presented for consideration. No claims have been added or cancelled from the pending application, though claim 1 and 6 have been amended according to the instructions of the Examiner.

Information Disclosure Statement

Applicant acknowledges that the Examiner has considered the information disclosure statement previously submitted.

Claim Rejections Under 35 U.S.C. § 103

The Examiner rejected claims 1-3 and 6-8 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,113,188 to Stewart et al. The Examiner has argued that Stewart et al. teaches all of the components set forth in claims 1-3 and 6-8 with the following limitations, which are believed by the Examiner to be obvious design choices:

1. The Examiner has conceded that Stewart et al. “does not show the specific location of the operative connections of the first and second valve on one of the first and second side panels of the bladder;” and,
2. The Examiner has also conceded that the height of the rear portion of the bladder is not specifically taught in Stewart et al.

Applicant does not concede that it agrees with the conclusion of the Examiner that the two cited distinctions between Stewart et al. and the present invention are merely obvious design choices. However, apart from the distinctions, applicant submits that the present invention may be distinguished over Stewart et al. based on distinctions not considered by the Examiner; namely the considerable difference in how the present invention provides the necessary elevation of the rear portion of the seat over the front portion of the seat as compared to Stewart et al.

The Examiner has claimed that Stewart et al. shows “first and second trapezoidal-shaped side panels” (Page 3). The Examiner cites Figure 2 in support of this claim. Applicant respectfully submits, however, that this is an inaccurate interpretation of Figure 2 and the Stewart

et al. patent. Specifically, Stewart et al. defines “that the air chamber 16” is preferably a polyurethane fabric *tube* which is fastened in air tight fashion to the interfaces of the base member (12) and the seat member (14).” See Stewart et al., column 3, lines 4-7 (emphasis added). Applicant initially notes that the teaching of a tube is distinct from the present invention which teaches a bladder comprised of front and rear portions in first and second trapezoidal-shaped side panels.

The distinction between the polyurethane fabric tube of the Stewart et al. patent and the four piece inflatable bladder of the present invention is particularly noticeable when considering the purpose of the Stewart tube-shaped bladder with that of the inflatable bladder of the present invention. Specifically, in the present invention, the forward tilt of the seat apparatus, which is central to the operation of the apparatus, *is provided for and defined by* the first and second trapezoidal side panels. In Stewart et al. the forward tilt of the seating apparatus is not defined by the tube-shaped bladder, but rather, “the tilt is introduced by the off-center intersection of the brace members of the two-side scissor-braces (20) as shown in Fig. 2.” See column 3, lines 62-64. Stewart et al. clearly relies on two-side scissor-braces (20) to define the tilt of the seat member. The trapezoidal-shape of the tubular bladder, depicted in Figure 2 of Stewart et al., is not the result of the inherent-shape of the bladder, but is a result of forces asserted on the bladder by the side scissor-braces forcing the seat into a tilted position.

Incorporation of side scissor-braces as a means of imposing a tilt to the seat renders the Stewart invention significantly more complicated than the present invention. Most notably, the

side scissor-braces and the structure necessary to support the scissor-braces results in increased weight to the device which makes the device less suited for elderly and infirm patients who must carry these devices from chair to chair. The side braces are not frictionless and therefore additional force is required from the inflated bladder to overcome the friction of the side braces as the unit is being raised and tilted forward. Moreover, the inclusion of mechanical scissor-braces introduces a potential weakness to the Stewart device. If the scissor-braces of the Stewart device should become jammed, the unit will not work. In considering the Stewart device, one concern is that side-to-side motion by a seated individual might bend the scissor-braces so that they no longer close and open properly. Applicant therefore asserts that its device, in which tilt is gauged by the first and second trapezoidal-shape side panels of the inflatable bladder, is an improvement over the device taught in Stewart et al. because of its reduce complexity, fewer components and reduced weight.

As further evidence of the distinction between the air bladder of the present invention and the bladder of the Stewart et al. device, the Examiner is asked to consider what would happen in the Stewart device were the side braces is removed. The tube-shaped air bladder of the Stewart device would not afford any tilt to the upper seat portion and, in fact, would create an unstable device with the user having to balance precariously on the upper seat portion as the tube is inflated. The air bladder by itself would not afford any tilt to the upper seat portion. In light of these key distinctions between the Stewart device and the invention of the present application, applicant believes it has overcome the rejection based on the Stewart et al. patent with respect to claims 1-5 and 6-8.

The Examiner rejected claims 4, 5, 9, and 10 under 35 U.S.C. § 103(a) as being unpatentable over Stewart et al. in further view of U.S. Patent No. 6,264,279B1 to Chow. Claims 4, 5, 9, and 10 are directed to a selectively removable cover and a cover being comprised of a material to minimize slippage. The Examiner has argued that it would have been obvious to combine the removable cover system discussed in column 8, lines 2, 22-56 in Figures 14A, 14B, and 15 of the Chow patent with the Stewart et al patent. Applicant respectfully argues that the Examiner's reading of the Chow patent is misdirected in that Chow does teach inclusion of materials to minimize slippage.

It is firstly noted that the Stewart et al. reference, as conceded by the Examiner, does not disclose a cover having connecting means so that the cover may be removed from the basis and the bladder. However, Stewart et al. additionally does not teach a cover having a material to minimize slippage or providing a material to minimize slippage on the upper seat portion. The only reference to slippage in the Stewart et al. reference is located in column 4, lines 65-67 involving the inclusion of ridges on the base member (12) "so as to minimize the potential for slippage of the base member (12) relative to the surface upon which it is positioned." This suggests that Stewart et al. was conscious of the issue of slippage with the respect to the unit on the chair but was not concerned to address the issue of slippage with respect to an individual seated on the upper seat portion. The only teaching relative to the seat member is found in column 3, lines 14-17 which indicate that "the seat member (14) may be fabricated from any suitable plastic or metal. In the preferred embodiment, the members (12, 14) are fabricated from

injection molded polypropylene. Therefore, applicant respectfully submits that Stewart et al. teaches neither a cover nor a material to minimize slippage.

Claims 4 and 9 depend from claim 1 and further teach the invention of claim 1, which applicant believes is allowable over the cited reference of Stewart et al. Accordingly, applicant believes that claims 4 and 9 should be allowable as having narrowing limitations over allowable claims 1 and 6.

With respect to claims 5 and 10, applicant has argued above that Stewart et al. does not teach inclusion of a cover or material to minimize slippage as part of the cover. Applicant further argues that Chow which Examiner states has “a cover 268 (Fig. 14A) [having] a removable connecting means and contains material to minimize slippage” is incorrect. In one embodiment of the Chow device, there is taught “bag 260, which is preferably constructed from a water resistant and low-friction material such as cordura.” Column 8, lines 25-27. This bag is intended to protect the device from “any debris or liquids which may tend to soil seat 200 if unprotected.” This bag is clearly not intended to minimize slippage, being preferably constructed of a low-friction material. Chow further teaches a variation of the cushion bag, which is slip cover 260A. There is no reference of the slip cover including material to minimize slippage. In fact, Chow teaches a “cover 260A [containing] a rubber sheet 270 attached to the *underside* of the top of cover 260A for added strength and durability.” See column 8, lines 32-45 (emphasis added). Inclusion of a rubber sheet on the underside of the cover will not minimize

slippage by one seated on top of the cover. Nor does Chow, in the context of teaching about this cover disclose any property related to slippage.

Finally, Chow also teaches a “separate cosmetic cover 274 which may be used as an additional cover over bag 260 or cover 260A as further protection from the elements of the environment of use of seat 200.” See column 8, lines 48-52. Once again, there is no discussion of this cosmetic cover 274 including any material to minimize slippage, nor, is slippage even addressed as a problem to be solved by any of these components. The problem clearly being addressed by these components is protection of the underlying seat from the elements.

In the absence of evidence that either Chow or Stewart teaches the inclusion of a material to minimize slippage as a component of the cover, applicant argues that it is not proper to combine these references against claims 5 and 10 of the subject application. Furthermore, claims 5 and 10 depend from claims 4 and 9 which depend from claims 1 and 6 which applicant believes are allowable over Stewart et al. pursuant to the arguments presented herein.

CONCLUSION

Applicant now believes that this amendment complies with 37 CFR § 1.121 and thus requests examination of this Amendment. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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